THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.3233 OF 2007

Dated: 30th APRIL, 2007

BETWEEN:

D.Ramaraju

… Petitioner

And

The Inams Deputy Tahsildar, Chittoor District at Chittoor and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.3233 OF 2007

ORDER:

Petitioner along with M/s.V.Srinivasayya, V.Krishnamurthy and V.Partha Sarathy obtained ryotwari patta under the provisions of A.P. (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 (Inams Abolition Act, for brevity) from first respondent vide order under I.E.No.303 of 1977, dated 06.12.1980. The land admeasuring Acs.17.82 is comprised in survey Nos.254/2, 254/3, 254/4, 254/5, 255/1 and 256/1 situated at Tiruchanoor Village near Tirupati. The petitioner statedly got one-fourth share i.e., Acs.3.06 in the land. By sale deed, dated 23.06.2005, the petitioner sold his share of the property to one A.S.Gurappa except an extent of Acs.0.50, which the petitioner retained. The petitioner alleges that his vendee approached him at Chennai in January, 2007 and informed about the order of the first respondent in S.R.No.01/2006/IDT No.100/1990, dated 25.07.2006 declaring ryotwari patta granted to petitioner and three others in 1980 as fabricated and bogus and consequently granting ryotwari patta in favour of respondents 3 to 9 herein. Aggrieved by the same, petitioner filed the instant writ petition seeking a writ of Mandamus declaring the order of the first respondent, dated

25.07.2006 as illegal and arbitrary, and consequently to set aside the same with a direction to respondents not to interfere with the possession of the land referred to hereinabove.

An elaborate affidavit is filed in support of the writ petition. The following is the background of the case. V.Krishnamurthy represented by his General Power of Attorney (GPA), A.B.Narasimha Sastry filed W.P.No.24302 of 1995 challenging ryotwari patta granted by first respondent on 06.12.1980. By order, dated 06.12.1996, this Court set aside the patta insofar as the land in survey Nos.254/2 to 5, 255/1 and 256/1 is concerned observing that if the patta is obtained by using fabricated documents, it shall be open to first respondent to initiate enquiry, after furnishing necessary materials. Pursuant to the order of this Court, second respondent passed orders vide proceedings D.Dis.No.1801/1997, dated 07.11.1997 holding that V.Krishnamurthy failed to prove his title over the land admeasuring Acs.17.82 and that ryotwari patta, dated 06.12.1980 is null and void. This was assailed in W.P.No.11457 of 1998 by V.Krishnamurthy through his G.P.A. By order dated 25.02.2003, the order of the second respondent was set aside and the matter was remitted to first respondent herein with a direction to conduct enquiry into claims in relation to land in survey Nos.254/2 to 254/5 etc., after issuing notice to V.Krishnamurthy and contesting respondents therein. After the matter went back to first respondent, notices were issued to A.S.Gurappa, who filed objections. After considering the objections of all the persons, first respondent passed orders on 25.07.2006 granting patta to respondents 3 to 9. Aggrieved by which, present writ petition is filed.

At the stage of admission itself, first respondent filed elaborate counter affidavit on behalf of respondents 1 and 2. Entire history of litigation is given. It is however not necessary to refer to the counter in detail. In the counter affidavit, *inter alia* first respondent raised mainly three contentions. First, petitioner has no *locus standi* to question the order of first respondent. Secondly, A.S.Gurappa who was a party before first respondent and thirdly, the petitioner has filed Appeal before second respondent through his G.P.A. on 09.03.2007 and therefore, simultaneously this writ petition is not maintainable. It is also averred that one Smt.C.Ramanujamma, W/o Sriramulu, filed O.S.No.173 of 1988 on the file of Principal Senior Civil Judge, Tirupathi, against petitioner and others for declaration of title in respect of the property comprised in survey Nos.255/1 and 256/1, and therefore, the petitioner has no *locus standi.*

Learned counsel for petitioner submits that when this Court set aside the orders of second respondent on 25.02.2003 in W.P.No.11457 of 1988, a clear direction was given to issue notice to

V.Krishnamurthy and all others but no notice was issued by first respondent though the petitioner retained an extent of Acs.0.50 cents in the subject land. He nextly contends that though petitioner has parted with major chunk of land from out of his share, it is responsible for the vendee to see that valid title pass on to him. Thirdly, he submits that petitioner never gave any G.P.A., and therefore, the contention that Appeal is filed is not correct.

In the affidavit, the petitioner admits that M/s.Srinivasayya, V.Krishnamurthy, V.Partha Sarathy and D.Ramaraju (petitioner herein) filed an application before first respondent and a patta was granted. When at the instance of second respondent, first respondent again started *suo motu* enquiry, V.Krishnamurthy filed W.P.No.24302 of 1995 not only with respect to his share but entire extent of Acs.17.82, for which joint patta was granted on 06.12.1980. So to say, V.Krishnamurthy through his G.P.A., was aggrieved by the *do novo* enquiry taken by first respondent. At that stage, petitioner did not raise any objection presumably for the reason that V.Krishnamurthy was representing the entire extent or presumably for the reason that petitioner also consented for the unified effort on behalf of all co-sharers by V.Krishnamurthy. Be that as it is, when the matter was remitted by this Court, second respondent passed orders on 07.11.1997. Again it is only V.Krishnamurthy represented by his G.P.A., who filed W.P.No.11457 of 1998 for the entire extent of Acs.17.82, when this Court set aside order of second respondent, dated 07.11.1997, and remitted the matter to first respondent specifically directing that first respondent to issue notice to V.Krishnamurthy and contesting respondents herein. This only shows that petitioner was nowhere in picture. Insofar as grant of patta for Acs.17.82 is concerned, whether V.Krishnamurthy was fighting for himself or on behalf of three other co-sharers? At that stage also, petitioner did not demur presumably he impliedly and tacitly consented for V.Krishnamurthy to take necessary steps for getting joint patta in favour of all four persons. After the matter went back, pursuant to the Judgment of this Court in W.P.No.11457 of 1998, when the first respondent took up enquiry admittedly A.S.Gurappa filed objections. Be it noted, being a purchaser of the share of petitioner to a large extent, it was his duty to defend his title and at that stage, strictly speaking the petitioner was not at all necessary insofar as the land he sold to A.S.Gurappa. Therefore, the order of first respondent cannot be held as one without notice to the owner of land. It is pointed out by respondents 1 and 2 in their counter affidavit that against the order of first respondent, again Appeal is filed by G.P.A., even on behalf of the petitioner. Learned counsel for petitioner, however, disputes this

stating that his client never gave G.P.A., to anybody. If that be so, it is always open to him to approach first respondent, verify the records and take necessary steps including filing a fresh Appeal to protect his interest in an extent of Acs.0.50. Though the learned Assistant Government Pleader raised contention that petitioner has no *locus standi* as Smt.Ramanujamma obtained a decree from civil Court, this Court is not inclined to go into that matter. It is brought to the notice of this Court that various Appeals are filed against the impugned order and second respondent seized of the matter. If any opinion is expressed on the merits of the case, it would certainly prejudice a score of claimants. Now that Appeals are pending, the petitioner is given liberty to file an Appeal before second respondent seeking condonation of delay. In this writ petition, this Court is not inclined to go into the merits of the case as *locus standi* of petitioner to challenge the order of first respondent except to an extent of Acs.0.50 is certainly in the arena of doubt.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

30.04.2007.
pln